

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 2004-11565

**JASON P. FILES,
Plaintiff,**

v.

**MASSACHUSETTS DEPARTMENT
OF CORRECTIONS,
Defendant.**

**MOTION TO DISMISS OF DEFENDANT
MASSACHUSETTS DEPARTMENT OF CORRECTION**

Pursuant to Fed. R. Civ. P. 12(b)(6), defendant Massachusetts Department of Correction (“DOC”), respectfully moves to dismiss the Complaint for failure to state a claim upon which relief can be granted. The defendant bases this motion on the facts and law set forth in the accompanying Memorandum in Support of Motion to Dismiss of Defendant Department of Correction.

Respectfully Submitted
by the Massachusetts Department of Correction

NANCY ANKERS WHITE
Special Assistant Attorney General

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Dated: December 30, 2004